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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,089	12/04/2003	Martin D. Pierson	69,010-331	8794

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EXAMINER	
TRIEU, VAN THANH	

ART UNIT	PAPER NUMBER
2636	

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/729,089	PIERSON, MARTIN D.	
	Examiner	Art Unit	
	Van T Trieu	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 December 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/4/03 & 9/7/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Molinaroli** [US 6,265,984] in view of **Wolf et al** [US 6,655,640].

Regarding claim 1, the claimed a circuitry configured to supply an output signal to energized at least one stationary light to simulate a light having movement (the display PC board 11 is controlled by a microprocessor 12, which is fed power and data via a multi-conductor cable 112 via connectors 113,114 built into the display for displaying the illusion of alpha-numeric characters and/or 2-D, 3-D shapes to be changed or moved from one character/sign to another as desired by a user locally or remotely by a remote controller, see Figs. 1-5, 13 and 14, col. 3, lines 40-53, col. 6, lines 7-67, col. 12, lines 40-46 and col. 13, lines 21-52); but **Molinaroli** fails to disclose the apparatus for a model toy including a model toy train car operating on a model track to simulate movement of a mars unit light display. However, **Molinaroli** teaches that the LED display PC board can be in the form of miniature versions for use in motorized and non-motorized toy cars, see Fig. 25, col. 10, lines 58-63 and col. 19, lines 52-62. **Wolf et al** suggests that a toy model train 11 travels along the track 10 is operated by a user via a

remote control 16 to command the train including speed, smoke, sound and various lights. The train 11 includes a light deriver circuit 204 having a pulse width modulator for obtaining a desired brightness and colors by entering the command on the remote control 16, see Figs. 1-4, col. 5, lines 31-45, col. 37, lines 17-26 and col. 42, lines 10-18. Therefore, it would have been obvious to one skill in the art at the time the invention was made to substitute the toy model train of **Wolf et al** for the motorized car of **Molinaroli** since both the toy car or toy train are operated by electrical motor for running and to provide enhancement attractions such as sounds and lights built with the car or train, which are available in the TOY-R-US store.

Regarding claim 2, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 1 above, and including the microprocessor 13, see col. 12, lines 40-58.

Regarding claim 3, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 1 above, and including the serial communication signal, see Fig. 14, col. 14, lines 41-49.

Regarding claim 4, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 1 above, and including the first signal provides instructions to the circuitry selected from the group consisting of :on, off and react to DC offset, see col. 12, lines 6 and col. 20, lines 11-15 and col. 26, line 42.

Regarding claim 5, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 1 above, and including the pulse width modulation signal, see **Wolf et al**, col. 37, lines 17-26.

Regarding claim 6, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 1 above.

Regarding claim 7, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 6 above, and including the selected of forward, reverse and speed, see **Wolf et al**, col. 6, lines 39-47.

Regarding claim 8, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claims 6 and 7 above, and including the selected of neutral, see **Wolf et al**, col. 18, lines 64-65.

Regarding claim 9, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 1 above, and including the connector, see col. 8, lines 41-56 and col. 24, lines 44-57.

Regarding claim 10, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 9 above, and including the user control box (the tract

interface unit TIU 12 of **Wolf et al**, see Figs. 1 and 3, col. 5, lines 31-67 and col. 6, lines 1-31.

Regarding claim 11, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claims 4 and 10 above, and the wall socket (the AC power source 14 of **Wolf et al** is plugged into household power outlet or wall socket, see Fig. 1, col. 37-41).

Regarding claim 12, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 11 above, and including the button (the computer 30 of **Wolf et al** having keyboard input, see Fig. 3, col. 8, lines 14-17.

Regarding claim 13, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claims 2 and 3 above and including the pre-programmed, see col. 7, lines 22 and col. 12, lines 1-2.

Regarding claim 14, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 1 above, and including intermittent light with varying brightness to simulate a light having movement (the flashing light and brightness adjustment, see col. 4, lines 35-39 and col. 20, lines 10-15 and **Wolf et al**, col. 37, lines 19-22).

Regarding claim 15, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claims 2 and 14 above.

Regarding claim 16, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 15 above.

Regarding claim 17, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** in respect to claim 15 above, and including the fiber optic conductor, see col. 18, lines 40-46 and col. 24, lines 40-43).

2. Claims 18-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Molinaroli** and **Wolf et al** and further in view of **Wainwright** [US 6,651,365]. Regarding claim 18, **Molinaroli** fails to discloses the circuitry is configured to supply a processor output signal to sequentially energize at least intermittently a first set of lights and a second set of lights to simulate a light having movement wherein the first set includes one or more lights and the second set includes one or more lights. However, **Molinaroli** teaches that the microprocessor 13 is pre-programmed or programmed by a user with different display patterns to be displayed characters, signs, symbols, or alphanumerical in sequentially or simultaneously such as spinning on/off, flashing, directions and colors either from selecting command buttons 68-70 or from a remote control as desired by a user, see Figs. 1-5, 12-14 and 25-27, col. 4, lines 34-39, col. 6, lines 61-67, col. 7, lines 21-24 and col. 13, lines 38-41. **Wainwright** suggests that an

apparatus for producing a continuous animated display of one or more images within a single display utilizing time sequencing of bundle of optical fibers arrayed 112, 114, 116 and 118 in specific patterns to produce a plurality of sub-frame images in a pre-programmed. Each of bundle of optical fibers 112, 114, 116 and 118 are illuminated in a continuous motion sequence and random flashing in defined area of the image such as alphanumeric, character, shape or design, see Figs. 1-8, col. 3, lines 42-65, col. 4, lines 17-25, col. 6, lines 1-18, col. 7, lines 7-23 and col. 14, lines 4-49. Therefore, it would have been obvious to one skill in the art at the time the invention was made to substitute the pre-programmed patterns displayed the plurality of bundle of optical fibers in sequencing motion and flashing or intermittent of **Wainwright** for the pre-programmed microprocessor of **Molinaroli** and **Wolf et al** since the microprocessor was programmed to display plurality patterns in a manner of spinning on/off, coloring, flashing and changing directions.

Regarding claim 19, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** and **Wainwright** in respect to claims 14 and 18 above.

Regarding claim 20, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** and **Wainwright** in respect to claim 18 above, see Figs. 19, 25 and 26; and Figs. 1-8 of **Wainwright.**

Regarding claim 21, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** and **Wainwright** in respect to claim 18 above, see Figs. 19, 25 and 26; and Figs. 1-8 of **Wainwright.**

Regarding claim 22, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** and **Wainwright** in respect to claim 18 above.

Regarding claim 23, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** and **Wainwright** in respect to claim 22 above, see Figs. 19, 25 and 26; and Figs. 1-8 of **Wainwright.**

Regarding claim 24, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** and **Wainwright** in respect to claim 23 above, and including the circle and eight configuration (the hand operated display device is programmed to display ASCII characters, or symbols, or graphic, which includes circle and number eight, see Figs. 4-9 and 18, col. 9, lines 24-32.

Regarding claim 25, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** and **Wainwright** in respect to claims 17 and 23 above.

Regarding claim 26, all the claimed subject matters are discussed between **Molinaroli** and **Wolf et al** and **Wainwright** in respect to claims 24 and 25 above.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Levy et al discloses an education kit for teaching and developing creative arts including a changeable panel displays or pictures, which are selectively light accented and animated using a plurality of optical fibers. [US 4,860,475]

Weber et al discloses a edible fiber optic light source is combined with confectioneries to form a safe edible material processing usually combinations of internally generated colors and optical images. [US 6,416,800]

Young et al discloses a control circuit for remotely control a train toy running along a track. [US 5,251,856]

4. Any inquiry concerning this communication or earlier communications from examiner should be directed to primary examiner **Van Trieu** whose telephone number is (571) 272-2972. The examiner can normally be reached on Mon-Fri from 7:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. **Jeffery Hofsass** can be reached on (571) 272-2981.

Van Trieu
Primary Examiner
Date: 4/8/05